

24.103

deemed to be maintained by the agency and is subject to the Act.

(d) Agencies, which within the limits of their authorities, fail to require that systems of records on individuals operated on their behalf under contracts be operated in conformance with the Act may be civilly liable to individuals injured as a consequence of any subsequent failure to maintain records in conformance with the Act.

24.103 Procedures.

(a) The contracting officer shall review requirements to determine whether the contract will involve the design, development, or operation of a system of records on individuals to accomplish an agency function.

(b) If one or more of those tasks will be required, the contracting officer shall—

(1) Ensure that the contract work statement specifically identifies the system of records on individuals and the design, development, or operation work to be performed; and

(2) Make available, in accordance with agency procedures, agency rules and regulation implementing the Act.

24.104 Contract clauses.

When the design, development, or operation of a system of records on individuals is required to accomplish an agency function, the contracting officer shall insert the following clauses in solicitations and contracts:

(a) The clause at 52.224-1, Privacy Act Notification.

(b) The clause at 52.224-2, Privacy Act.

Subpart 24.2—Freedom of Information Act

24.201 Authority.

The Freedom of Information Act (5 U.S.C. 552, as amended) provides that information is to be made available to the public either by (a) publication in the FEDERAL REGISTER; (b) providing an opportunity to read and copy records at convenient locations; or (c) upon request, providing a copy of a reasonably described record.

48 CFR Ch. 1 (10-1-99 Edition)

24.202 Prohibitions.

(a) A proposal in the possession or control of the Government, submitted in response to a competitive solicitation, shall not be made available to any person under the Freedom of Information Act. This prohibition does not apply to a proposal, or any part of a proposal, that is—

(1) In the possession or control of NASA or the Coast Guard; or

(2) Set forth or incorporated by reference in a contract between the Government and the contractor that submitted the proposal. (See 10 U.S.C. 2305(g) and 41 U.S.C. 253b(m).)

(b) No agency shall disclose any information obtained pursuant to 15.403-3(b) that is exempt from disclosure under the Freedom of Information Act. (See 10 U.S.C. 2306a(d)(2)(C) and 41 U.S.C. 254b(d)(2)(C).)

(c) A dispute resolution communication that is between a neutral person and a party to alternative dispute resolution proceedings, and that may not be disclosed under 5 U.S.C. 574, is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(3)).

[62 FR 257, Jan. 2, 1997, as amended at 62 FR 51270, Sept. 30, 1997; 63 FR 58594, Oct. 30, 1998]

24.203 Policy.

(a) The Act specifies, among other things, how agencies shall make their records available upon public request, imposes strict time standards for agency responses, and exempts certain records from public disclosure. Each agency's implementation of these requirements is located in its respective title of the Code of Federal Regulations and referenced in subpart 24.2 of its implementing acquisition regulations.

(b) Contracting officers may receive requests for records that may be exempted from mandatory public disclosure. The exemptions most often applicable are those relating to classified information, to trade secrets and confidential commercial or financial information, to interagency or intra-agency memoranda, or to personal and medical information pertaining to an individual. Since these requests often involve complex issues requiring an in-

Federal Acquisition Regulation

25.000

depth knowledge of a large and increasing body of court rulings and policy guidance, contracting officers are cautioned to comply with the implementing regulations of their agency and to obtain necessary guidance from the agency officials having Freedom of Information Act responsibility. If additional assistance is needed, authorized agency officials may contact the Department of Justice, Office of Information and Privacy.

[48 FR 42277, Sept. 19, 1983, as amended at 51 FR 31426, Sept. 3, 1986. Redesignated at 62 FR 257, Jan. 2, 1997]

PART 25—FOREIGN ACQUISITION

Sec.

25.000 Scope of part.

Subpart 25.1—Buy American Act—Supplies

- 25.100 Scope of subpart.
- 25.101 Definitions.
- 25.102 Policy.
- 25.103 Agreements with certain foreign governments.
- 25.104 Acquiring civil aircraft and related articles.
- 25.105 Evaluating offers.
- 25.106 [Reserved]
- 25.107 Acquisition from or through other Government agencies.
- 25.108 Excepted articles, materials, and supplies.
- 25.109 Solicitation provisions and contract clauses.

Subpart 25.2—Buy American Act—Construction Materials

- 25.200 Scope of subpart.
- 25.201 Definitions.
- 25.202 Policy.
- 25.203 Determinations requested before submission of offers.
- 25.204 Evaluating offers of foreign construction material.
- 25.205 Postaward determinations.
- 25.206 Noncompliance.
- 25.207 Solicitation provisions and contract clauses.

Subpart 25.3—Balance of Payments Program

- 25.300 Scope of subpart.
- 25.301 Definitions.
- 25.302 Policy.
- 25.303 Procedures.
- 25.304 Excess and near-excess foreign currencies.
- 25.305 Solicitation provision and contract clauses.

Subpart 25.4—Trade Agreements

- 25.400 Scope of subpart.
- 25.401 Definitions.
- 25.402 Policy.
- 25.403 Exceptions.
- 25.404 [Reserved]
- 25.405 Procedures.
- 25.406—25.407 [Reserved]
- 25.408 Solicitation provisions and contract clauses.

Subpart 25.5—Use of Foreign Currency

- 25.501 Policy.
- 25.502 Solicitation provision.

Subpart 25.6—Customs and Duties

- 25.600 Scope of subpart.
- 25.601 Definition.
- 25.602 Policy.
- 25.603 Procedures.
- 25.604 Exempted supplies.
- 25.605 Contract clause.

Subpart 25.7—Restrictions on Certain Foreign Purchases

- 25.701 Restrictions.
- 25.702 Contract clause.

Subpart 25.8—International Agreements and Coordination

- 25.801 International agreements.
- 25.802 Procedures.

Subpart 25.9—Additional Foreign Acquisition Clauses

- 25.901 Omission of audit clause.
- 25.902 Inconsistency between English version and translation of contract.

Subpart 25.10—Implementation of Sanctions Against Countries That Discriminate Against United States Products or Services in Government Procurement

- 25.1000 Scope of subpart.
- 25.1001 Definitions.
- 25.1002 Trade sanctions.
- 25.1003 Contract clauses.

AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42278, Sept. 19, 1983, unless otherwise noted.

25.000 Scope of part.

Except as provided in agency regulations, this part provides policies and procedures to implement the Buy American Act, the Balance of Payments Program, purchases under the Trade Agreements Act of 1979, and